



JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES

**March 13, 2012
Room 643, Legislative Office Building**

The Joint Legislative Oversight Committee on Health and Human Services met on Tuesday, March 13, 2012 at 10:00 A.M. in Room 643 of the Legislative Office Building. Members present were: Senator Louis Pate, Representative Nelson Dollar, and Representative Justin Burr, Co-Chairs; Senators Austin Allran, Doug Berger, Stan Bingham, Harris Blake, Jim Davis, Fletcher Hartsell, Eric Mansfield, Martin Nesbitt, William Purcell, and Tommy Tucker; and Representatives William Current, Mark Hollo, Pat Hurley, Bert Jones, Marian McLawhorn, Tom Murry, and Fred Steen. Representatives Marilyn Avila, Verla Insko, and Jennifer Weiss were also present.

Lisa Hollowell, Denise Thomas, Donnie Charleston, Karlynn O'Shaughnessy, Shawn Parker, Theresa Matula, Amy Jo Johnson, Jan Paul, Patsy Pierce, Susan Barham, Joyce Jones, Pat Porter, Rennie Hobby, Candace Slate, and Dina Long provided staff support to the meeting. A Visitor Registration Sheet is attached and made a part of the minutes (See Attachment 1)

Chairman Pate called the meeting to order and welcomed members and guests. He asked for a motion to approve the minutes from the February 14, 2012 meeting. The motion was made by Senator Purcell and the minutes were approved.

Tara Larson, Chief Clinical Operating Officer from the Division of Medical Assistance, reported on the April 30th deadline of the Centers of Medicaid and Medicare Service (CMS) sunset on Medicaid Adult Care Home Personal Care Services and In-Home Personal Care Services. (See Attachment No. 2) Ms. Larson reviewed some of the goals DMA is trying to accomplish not only in terms of correcting any compliance issues with CMS but also the goals to be achieved by DMA. She explained the current status of PCS and the discrepancy between rates in the Adult Care Home service and the In-Home service that is requiring some resolution. The resolution is in process and will require the submission, review and approval of a state plan amendment (SPA). It is planned that this SPA will be submitted on April 1. Currently, CMS has provided a deadline to the state of April 30 to resolve the problem. Steps are being taken to extend the April 30th deadline to accommodate the submission date of April 1 for the SPA, and the application for the 1915(i) Medicaid Waiver that will serve as a component to the resolution of the PCS problem. The 1915(i) is part of the Social Security Act that outlines the rules and requirements of this particular way of funding for Medicaid services. Ms. Larson described the characteristics and components of the (i) Waiver application, and detailed the three target populations – those with physical disabilities, individuals with mental illness, intellectual disability, or cognitive impairment, and the elderly. She then highlighted the impact on providers and the consequences of failure to resolve this issue. In a related issue, she described the work being done to investigate whether certain Adult Care Homes might be considered Institutions of Mental Disease (IMD) by virtue of the fact that more than 50% of their residents have a primary diagnosis of mental illness. This may prohibit these homes from receiving Medicaid funding. Ms. Larson expressed concern over the lack of housing options for those that would have to leave an IMD

deemed facility. She said the total expenditure including State and Federal funds for SFY 2012 would be \$414M.

Steve Owen, Chief Clinical Business Operating Officer from the Division of Medical Assistance, reviewed the cost of the 1915(i) Medicaid Waiver. He said they looked at the volume to determine what additional activity could be expected in terms of total recipients. (See slide 16 of Attachment No. 2) He anticipated that Medicaid enrollment for PCS would increase to about 3% next year, and the “woodwork effect” would be the additional recipients coming into the program as a result of the availability of 1915(i) funding. The figures shown indicate the impact in State dollars only. The fiscal impact for FY 2012-2013 would be \$22M for In-Home and \$15M for Adult Care Home.

Ms. Larson was asked to provide a list of the 25 ACHs mentioned in slide thirteen. She was also asked to provide a summary of the eligibility criteria depicting the current criteria verses the criteria in the future including the cost impact of changing eligibility. It was requested that Ms. Larson provide a detailed analysis of the 3,700 - 4,000 recipients that may not meet the 1915(i) criteria showing if they are in facilities or in homes, or split, and the rationale for the disenfranchisement. Ms. Larson was asked what she believed to be the solution to the housing issue. She responded that one reason DHHS had asked CMS for additional time was to coordinate the housing issue. The Department is working to obtain additional resources through HUD and other sources to work on housing options, and they are also looking at the use of special assistance payments that cover room and board. She said alternative housing remains a serious concern.

Chairman Dollar expressed his concern for the safety of individuals under the Home and Community Based Standards outlined in slide twelve. Ms. Larson responded that DHHS had worked with CMS on this and that if the recipient’s Person Centered Plan restricts the person’s rights for health and safety reasons, the plan would document such. In statutes there is also the possibility to go through the process to restrict a person’s rights either through the Client Rights Committee or through permission of the guardian if guardianship is in place. He then asked Ms. Larson if there was housing identified across the State if the April 30th deadline was not extended. She said the Department had been working on an inventory but there is not enough housing available that is suitable such that Medicaid will pay for the services for people who reside there. He reiterated that the State could potentially be faced with thousands of the most vulnerable citizens without housing after April 30th if the extension is not approved, and it would have a direct impact on ACH facilities. Chairman Dollar asked what the implication and cost to the State would be if it was decided not to offer Medicaid PCS optional services and what the potential impact would be. Ms. Larson said \$414M would be eliminated that is projected for this year. It would also mean the Medicaid funding would not be available for any of the ACH or the In-Home PCS. Mr. Owen said he would get numbers showing what the impact would be on the expenditures and what it would mean to the industry.

Terry Hatcher, Director of Property and Construction, DHHS provided an update on DHHS leases. (See Attachment No. 3) He said the information provided changes frequently with leases expiring and others being renewed or not renewed. A summary of the information provided included:

- Number of lease agreements: 188
- Employees in leased space: 3,798
- Total leased square footage: 1,175,251
- Annual cost of leases: \$16,002,339
 - State funding: \$7,532,286 (47.07%)
 - Federal funding: \$7,713,723 (48.20%)

- Other funding: \$756,330 (4.73%)
- Average cost per square foot: \$13.62

Mr. Hatcher also provided a spreadsheet containing a detailed list of all of the leases including a listing by division or office, program, city, total number of staff, square footage, annual cost, leasing information, funding, and lessor. (See Attachment No. 3a) Chairman Pate noted that he believed there were no rural counties mentioned in leased spaces. Mr. Hatcher said there were leased spaces across the State and referenced the fact that Martin County had several Call Centers. Chairman Dollar requested a list of the principals of the LLC's that correspond to the leases.

To lead into the Dorothea Dix Property agenda item, Shawn Parker, staff attorney, provided an overview of the process and requirements for closure of the Dorothea Dix Hospital, told members what is allowed for either sale or lease of State property; and where the net proceeds will go from the sale. (See Attachment No. 4) Chairman Dollar asked if the General Assembly could change the current distribution of funds in statutes for the property. Mr. Parker said that all three of the above items could be changed by legislative direction up to a point. He said it was possible to reopen something that had been closed, delay closure, change the requirements of a sale prior to going into a contract, and determine where the proceeds should go. When asked if the General Assembly could put the funds into the Mental Health Trust Fund or some other instrument, Mr. Parker said the funds could be placed wherever the General Assembly wished them to go.

Speros Fleggas, Senior Deputy Secretary for the Department of Administration addressed issues related to the Dorothea Dix property. (See Attachment No. 5) He reviewed a 2005 Master plan of the Dix campus. (See Attachment No. 5a), and then reviewed the appraisal report of the Dix property. (See Attachment No. 5b) (He indicated that the appraisal and the Master Plan was online for review on the Department of Administration State Property website.) He said the appraisal included a detailed report of the prospective and current market values, an in-depth analysis of the potential value of the property, and the appraisal detailed the long-term leases of some of the property. Mr. Fleggas then described the RFP for tenant representation that DOA issued for the eventual move of State employees from the Dix campus. The two year contract, which can be extended if necessary, allows enough time for a study, RFP's, and negotiations in preparation for relocation. Once there is a contract for relocation it could take 3-5 years for those relocations depending on what option is selected to relocate DHHS staff off campus. He said that at the conclusion of the two year study, and the issuance of the RFP answers should be known related to the cost and time. He concluded by saying that the deadline for responding to the RFP and the submission of proposals is 2:00 pm, March 30, 2012. Chairman Dollar asked if DOA had any intention of disposing of any acreage whatsoever before the study comes back and the General Assembly has had an opportunity to act. Mr. Fleggas replied that he did not believe DOA could make that move. Chairman Dollar responded that he appreciated DOA having that understanding.

Luckey Welsh, Director of State Operated Facilities, DHHS, provided information on the movement of the patients from the Dorothea Dix Hospital campus, and Laura White, Team Leader for State Hospitals explained the actual details of the process of moving the patients. (See Attachment No. 6) Mr. Welsh said the move would improve the quality of care and safety of patients, and would reduce the cost of operations. He said the plan would be resubmitted along with an updated schedule to the General Assembly, and he would then seek approval from the Council of State for the closure. Ms. White explained that the 30 remaining patients in the Forensic Unit would be moved into the old John Umstead Hospital (now being called the CRH Annex) at Central Regional Hospital in Butner. She explained that the patients would have comparable care, treatment, and social opportunities

including transportation to access cultural occasions. Ms. White also said 88 staff members would be transferring to CRH, and that there would need to be some enhancements made to the CRH Annex. She said it would take about 45 days to finalize and implement the plans which should occur this summer.

Representative Hurley expressed her concern over the closure of Dorothea Dix, the issues of staffing and transportation for Central Regional, and the number of people that continue to have to wait in hospital emergency departments for beds. Mr. Fleggas was asked what would happen to the cemetery located on the Dix campus. He said that at this point, it had not been determined what would happen to the 1,000 graves.

Chairman Dollar asked if the assessment was correct that DHHS at this time did not have a plan in place to relocate the 1,300 DHHS staff, did not know what the associated cost would be, what the long term or short term lease cost would be, and other issues yet to be discussed. Mr. Fleggas said the study would address those issues to help determine the course of action to be taken. Secretary Delia added that DHHS was looking at what the Department would need to do in the eventuality that staff would be moved. He said that the Department was looking at the consolidation of leases and space which included the consolidation on campus and off. Chairman Pate added that the General Assembly would want to see a comprehensive, detailed plan from DHHS and State Properties before taking any sort of action. Senator Purcell added that serious consideration should be given to a long range plan to consolidate all State offices into one central location especially since the State already owned the Dix property. Representative Avila asked who initiated and paid for the appraisal. Mr. Fleggas said the appraisal was initiated by DHHS at the request of the Governor's Office, and was paid for out of funds from the Continued Master Planning Effort, part of the Master Plan for State Facilities in Wake County. Representative Insko said she sensed that the General Assembly was moving very slowly and very methodically and that she agreed with that strategy.

After lunch, Chairman Pate called the meeting back to order and said that the Chairs had consulted and had asked staff to develop proposed legislation for the April meeting for the committee to see stating that the property at Dix is not allocated out until the General Assembly has had an opportunity to study the issue.

Dr. Deb Cassidy, Director of the Division of Child Development and Early Education (DCDEE), DHHS, provided an update on DCDEE nutrition standards and the West Hoke Elementary Pre-K program. (See Attachment No. 7) She explained who sets the nutrition standards, what those standards are, and how those healthy habits are relayed to children. As far as the West Hoke Elementary School incident was concerned, Dr. Cassidy said there was no representative from DCDEE or a contractor present at the school the day of the incident. She explained that a teacher provided an additional lunch from the school lunch program to a child who had brought a lunch from home who was missing milk. Addition of the milk alone would have completed the nutritious meal requirements for that child. She said that nutritious foods are available on the tables for students wishing to supplement their meal. Dr. Cassidy said the Principal sent a letter to the parents of the Pre- K program explaining the components of a nutritious lunch. She was asked if an actual list of suggested food items was sent along with the letter. She responded that she was not sure but indicated that it would be a good idea to do so. She said that families may be asked to pay for meals if a student's meal is not appropriate. Dr. Cassidy was asked how many Pre- K children were required to order their meals ahead of time. She responded that she would have to check. Chairman Burr asked if someone from DCDEE actually went to West Hoke Elementary to speak with the

Principal and parents about the incident or were facts being based on feedback. Dr. Cassidy responded that there had been feedback from DCDEE's assessor and from the consultant. There had been attempts to communicate with the Principal but the Principal had failed to call back. She was asked what the recourse was in such an instance. She said they could do an unannounced visit. In the future, she said that DCDEE is ensuring that all consultants and assessors understand their role and exactly what the policy says as they go into the classrooms. She said DCDEE had also consulted with Smart Start and the Resource and Referral System regarding educating families about nutrition guidelines.

Beth Lovette, President of the Appalachian District Health Department, and President of the North Carolina Association of Local Health Directors (NCALHD) explained what public health departments do in North Carolina to promote and protect health, and prevent disease. (See Attachment No. 8) She also explained what makes local health departments strong and effective through qualified executives, executives who engage local boards of health, through funding and infrastructure support, and by having strong and coordinated collaboration. Ms. Lovette also provided the NCALHD 2012 list of legislative agenda items. (See Attachment No. 8a)

Anne Thomas, Health Director for Dare County told the committee about the Peer Power Program - a ten year operation which is a partnership between the Dare County Department of Public Health and the Dare County School System. (See Attachment No. 9) She described how the program is transforming the health of the community and positively impacting the health of the youth in Dare County. This school-based program trains high school students to mentor and teach middle and elementary students the dangers of tobacco use, the importance of good nutrition and physical activity. Ms. Thomas said studies showed that investing in prevention saves money. She said one report indicated that with the investment of \$10 per year in proven community based programs to increase physical activity, improve nutrition, and prevent smoking, could save the country \$16B in 5 years - \$5B in Medicare, \$1.9B in Medicaid, and \$9B in private payers. The potential savings in North Carolina could be \$500M.

Ms. Thomas was asked to provide copies of the results of the studies referenced in her presentation. She said the information was being compiled and would send it as soon as possible. Senator Purcell asked the Chairs if they would consider recommending that the committee introduce legislation to increase the tobacco tax by \$1 per pack. Chairman Pate said that it was worthy of discussion especially in light of the decrease in the number of deaths due to the education programs that teenagers are going through now but would be difficult since tobacco in North Carolina is grown, marketed and consumed. Senator Purcell responded that if the committee did not make the recommendation, it would go nowhere.

Deana Billings, Executive Director of the Wilkes Public Health Dental Clinics explained that at the time the clinic was created, there was one dentist to serve 6,000 people. She described the need for dental care, especially for children; the history of the clinic, how it grew; the generous support of the community; and the positive outcomes. (See Attachment No. 10) Ms. Billings also said that private donations made it possible to purchase a mobile unit which serves all 23 schools in Wilkes County. This eliminated the problem of transportation for parents seeking dental care for their children. In 2004 an adult clinic was added.

Representative Jones said he was very impressed with this model and that there needed to be more duplicated across the State. Ms. Billings responded that she was a part of two work groups across the

State that share information to make the operations successful. She added that there were groups from out-of-state that had looked at the clinic and wanted to learn ways to be as successful. She said community support was key to helping them meet their goals. Representative Jones asked Ms. Lovette to provide information regarding the number of clinics across the State, the number of providers there are, and the number of patients being served. Chairman Dollar asked if there were any operational issues (non-budget items) from the standpoint of the local health departments that the State might be able to help with. Ms. Lovette said she would follow up after she discussed the issue with her association.

Dr. Dianah Bradshaw, Interim Breast and Cervical Cancer Prevention and Control Unit Manager, DPH, DHHS, gave a brief synopsis on the 2011 Annual Report on the North Carolina Cancer Control Plan. (See Attachment No 11) Dr. Bradshaw said a lot of activities had taken place with cancer partners for implementation of the Cancer Plan which covers the timeframe of 2007-2012. She said they were now evaluating some of the implementation activities that were done, and would continue to work with the Advisory Committee on Cancer Coordination and Control listed on the back of handout number eleven. The Advisory Committee helps strengthen the cancer program as they look for grants to help with the program across the State. Dr. Bradshaw reviewed issues of the past five years, and went over the top five cancer priorities for 2012-2017.

Representative Current asked if the General Assembly was still providing funds to the Lineberger Cancer Center. Staff said they would check and get back with the information.

There being no further business, the meeting adjourned at 3:25 PM.

Senator Louis Pate, Co-Chair

Representative Nelson Dollar, Co-Chair

Representative Justin Burr, Co-Chair

Rennie Hobby, Committee Clerk